

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

2:09-CV-626 JCM (PAL)

ALLIED PROPERTY AND
CASUALTY INSURANCE
COMPANY, a foreign corporation,
individually and as subrogee for its
insured Joseph M. Holohan,

Plaintiff,

v.

BEAZER HOMES HOLDINGS CORP.,
et al.,

Defendants.

ORDER

Presently before the court is plaintiff Allied Property and Casualty Insurance Company's motion to reconsider order granting defendant's motion for partial summary judgment upon plaintiff's tort claims for economic damages (doc. # 83). Defendant Beazer Homes Holdings Corporation filed an opposition (doc. #84). Plaintiff filed a reply (doc. #85).

On May 14, 2010, the court heard oral arguments from the parties regarding the defendant's motions for partial summary judgment (docs. #61 and #62). The court denied the motion for partial summary judgment upon plaintiff's negligence claim (doc. #62), and granted the motion for partial summary judgment upon plaintiff's tort claim for economic damages (doc. #61). In ruling, the court agreed with the defendant that the economic loss doctrine applied to the case, barring the plaintiff's recovery.

In its present motion for reconsideration, the plaintiff asserts that the economic loss doctrine

1 precludes recovery of purely economic losses in tort *absent* bodily injury or damages to property
2 *other* than the product itself. *Calloway v. City of Reno*, 116 Nev. 250, 993 P.2d 1259 (2000),
3 *overruled on other grounds, Olson v. Richard*, 120 Nev. 240, 89 P.3d 31 (2004). Further, plaintiff
4 asserts that it is undisputed that the product caused damages to property other than itself and the
5 house in which it was installed, “including but not limited to two automobiles, furniture, carpeting,
6 clothing, bedding, hand tools, power tools, electronic items, golf clubs, Christmas decorations and
7 luggage.”

8 Good cause appearing,

9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff Allied Property
10 and Casualty Insurance Company’s motion to reconsider order granting defendant’s motion for
11 partial summary judgment upon plaintiff’s tort claims for economic damages (doc. # 83) be, and the
12 same hereby is, GRANTED.

13 IT IS THEREFORE ORDERED that a rehearing on defendant Beazer Homes Holdings
14 Corporation’s motion for partial summary judgment upon plaintiff’s tort claim for economic
15 damages (doc. #61) be held before this court on November 19, 2010, at 10:00 am.

16 IT IS FURTHER ORDERED that defendant Beazer Homes Holdings Corporation file any
17 supplemental reply with the court within ten (10) days from the date of this order.

18 DATED this 22nd day of October, 2010.

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21 UNITED STATES DISTRICT JUDGE
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